

PHILIPPINE
PORTS
AUTHORITY



NOV 23 2020

PPA ADMINISTRATIVE ORDER
NO. 08 - 2020

TO : Port Managers
Port Users and Others Concerned

SUBJECT : Revised Guidelines on the Transfer of the Management and
Operation of PPA Ports to Local Government Units (LGUs)

1. LEGAL BASES

- 1 1 Presidential Decree No 857, as amended
- 1 2 OGCC Opinion No 010, Series of 1996 and Opinion No 210, Series of 1997
- 1 3 Board Resolution No 2957

2. POLICY STATEMENT

The Philippine Ports Authority (PPA) is mandated to manage, operate, develop and maintain ports under its administrative jurisdiction. In certain cases, the management and operation of a PPA port may be transferred temporarily to the LGU where it is located or to GC created by or authorized by said LGU, subject to the provisions herein provided.

3. SCOPE

This Order covers ports under the administrative jurisdiction of PPA, which generally cater only to domestic vessels and cargoes and not categorized by PPA as vital or priority ports among the ports programmed for development into international standards.

4. OBJECTIVES

This Order is issued for the purpose of attaining the following objectives:

- 4 1 To prescribe revised guidelines in the temporary transfer of the management, operation, development and maintenance of PPA ports to LGU.
- 4 2 To allow LGU participation in providing vital transport network linkages and services without PPA abandoning its statutory responsibility over ports.

Page 1 of 12

- 4 3 To harmonize LGU empowerment pursuant to Republic Act No. 7160 and PPA's statutory jurisdiction over government ports pursuant to Presidential Decree No 857, as amended

5. DEFINITION OF TERMS

For purposes of this Order, the following terms shall mean or be understood to mean

- a **Cargo Handling Charges** - the prescribed rates and charges collectible by the cargo handling operator for services rendered in the port
- b **GC** – the government corporation or unit organized/created by the concerned LGU tasked by its charter to implement a program for the economic development of a specific territory and its operation of a port facility is directly or indirectly necessary, incidental or conducive to the attainment of its corporate goals and objectives
- c **Government Ports** – the public ports constructed, owned and maintained by the national government and under the administrative jurisdiction of the PPA
- d **LGU** – provinces, municipalities and chartered cities as defined in the Local Government Code of the Philippines
- e **MOA** - the Memorandum of Agreement entered into by and between PPA and the concerned LGU A copy of the pro-forma MOA is hereto attached as **Annex "A"**.
- f **Port Charges** - Dockage (Domestic), Wharfage Dues and Storage Fees assessed against vessels and cargoes engaged in the domestic trade
- g **PPA Port System** - ports over which the PPA exercises jurisdiction and authority and accept responsibility for all functional areas of development to include planning and design, financing/loan servicing, rehabilitation/new construction/ repair/ maintenance dredging, port administration/management/ operations, regulation, revenue collection and all other activities relevant thereto. which in accordance with the thrusts and priorities of the government is necessary and vital for spurring regional development, providing critical link for the efficient and cheaper transport of cargoes and passengers between islands and for maintaining gateways to other international ports and markets, and where the PPA may likewise appropriate funds and other resources for the conduct of appropriate studies and development of new ports and the repair maintenance of other existing ports to make these ports effective alternative mode of transport and foster interisland trade and commerce

- h **PPA Takeover** - the resumption by PPA of the management, operation, development and maintenance of a port from an LGU for cause in order to protect and promote public interest
- i. **Supervision Fee** - the amount paid by the LGU to PPA for training, guiding and supervising the LGU in the management and operation of the port

6. **GENERAL GUIDELINES**

- 6.1 As a general rule, only provinces shall be allowed to apply for the management, operation, development and maintenance of a port. In case where PPA receives an application to operate, manage, develop and maintain a port from a municipality or city, such application will only be processed upon the submission of an endorsement from the province where the municipality or city is located.
- 6.2 Ports qualified to be operated and managed by the LGU may be the subject of a MOA between the PPA and the concerned LGU. The contents of the MOA shall be in accordance with this Order.
- 6.3 The authority of the LGU to manage, operate, develop and maintain a government port, including the rendition of cargo handling and port-related services, shall be for a term of three (3) years.
- 6.4 LGU shall be allowed to undertake cargo handling operations, either on their own or through a third-party service provider. Provided that the cargo handling and other related services to be contracted out to third parties by the LGU shall have a term not to exceed the stipulated period of the MOA between PPA and the LGU. Provided further that the third-party service provider contracted out by the LGU is duly accredited by PPA and must have the appropriate Permit-to-Operate (PTO) issued by PPA.

The choice of an operator at a port which is constructed and maintained out of national fund and LGU fund shall be exercised by PPA in line with the provisions of Section 40 of Presidential Decree No. 857, though the former may recommend the operator to the latter, subject to existing pertinent regulations.
- 6.6 The repair and maintenance of ports managed and operated by LGU pursuant to this Order shall be the sole and primary responsibility of said LGU.
- 6.7 All development plans for the port by the LGU shall have prior approval of PPA and shall conform to the overall master plan for all ports nationwide. The implementation of the development plan committed by the LGU shall be its sole and primary responsibility.

- 6.8 Unless already covered by law or presidential issuances, these ports shall be properly delineated giving the exact location of the port zone through an approved Sangguniang Resolution / Ordinance of the concerned LGU

7. PORTS ELIGIBLE FOR TRANSFER TO LGU OR GC

Only ports meeting the following requirements may be managed, operated, maintained and developed by LGU -

- a Cater only to domestic vessels,
- b Annual cargo throughput should not be more than 50,000 metric tons or for ports with purely passenger or RO-RO cargo the annual gross revenue reported should not be more than Php4,780,00 00 over a 3-year period, and
- c Not part of the integrated port development program as determined by the PPA Board

8. OPERATIONAL REQUIREMENTS FOR THE TRANSFER OF PORT TO LGU

- 8.1 The LGU shall maintain a minimum capitalization of at least Php380,000 00 and a working capital of at least Php75,000 00
- 8.2 The LGU shall provide all the cargo handling equipment, tools, gears, and personnel necessary in the operation of the port
- 8.3 The port management and supervisory officers of the LGU should have at least three (3) years relevant technical and management experience in cargo handling business and/or port operations. The LGU should maintain well-trained and skilled workers of every category in port operations.
- 8.4 The organizational structure of the LGU shall have a Port Operation Section to exclusively handle the port operations activities to ensure efficient services in the port

9. SUPERVISION FEE

- 9.1 The Supervision Fee to be remitted by the LGU to PPA shall be equivalent to fifty (50%) percent of the port revenues generated
- 9.2 The LGU may request to be subjected only to 10% Supervision Fee provided that said request is supported by document/s showing the proposed investment in the port by the LGU. Provided further that the 10% Supervision Fee shall only be applied once the proposed port development has been implemented and completed
- 9.3 The concerned Port Manager shall issue a Certification that the LGU is qualified for the 10% Supervision Fee based on the documents submitted

- 9 4 The General Manager, based on the documents submitted and recommendations from the Assistant General Manager for Operations, may approve the grant of 10% Supervision Fee and the same shall be made part of the MOA
- 9 5 Remittance of Supervision Fee shall be quarterly, on the fifth (5th) day of the first month of the following quarter
- 9 6 Monthly report of revenues collected shall be submitted by the LGU to the PMO, with copies of the corresponding Official Receipts issued

10. PORT TARIFF

- 10 1 The LGU shall only collect PPA-approved and prescribed tariff
- 10.2 The authority to impose, fix, prescribe, increase or decrease port charges for the use of port facilities and provisions of services rendered in the port transferred to LGU shall continue to remain with PPA
- 10 3 The LGU or GC shall comply with DILG Memorandum Circular No 2006-70 dated June 26, 2006, as amended, prohibiting the LGU from imposing fees, charges and taxes on the inter-province transport of goods and passengers
- 10 4 Where there is no existing PPA restructured cargo handling tariff for the port, PPA shall prescribe said tariff before the transfer to and actual management and operation of the port by the LGU

11. PORT DEVELOPMENT BY PPA

PPA may continue to undertake any required port development, including capital dredging works and major civil works in ports covered by a MOA with LGU, subject to the following conditions

- a Availability of PPA funds and resources appropriated for said purpose,
- b Port development plans submitted by LGU have been favorably recommended by the PMO holding jurisdiction over the port and approved to be integrated into the PPA Plans and Programs,
- c Port development projects are located within the delineated port zone and are intended for provision of vessel, cargo and passenger related services, and,
- d The LGU has faithfully complied with all of its responsibilities as stipulated in the MOA, including port upkeep, repair and maintenance

12. PROCEDURES FOR THE TURNOVER OF PORTS

- 12 1 The LGU shall submit to the concerned PMO the following documents

- 12 1 1 Letter-request for the transfer of the management, operations, development and maintenance of the port within its jurisdiction
- 12 1 2 Sanggunian Resolution / Ordinance providing the following
 - i Approving the application for management, operation, development and maintenance with PPA
 - ii Authorizing the Head of the LGU to enter into a MOA with PPA
 - iii Describing the exact location of the port zone taking into account the longitude and latitude coverage of the port
- 12 1 3 For LGU proposing for 10% Supervision Fee, said LGU shall submit a Feasibility Study to include prospective port development plans, structure and facilities, projected revenue, projected traffic and return on investment
- 12 2 The concerned PMO shall evaluate the application of the LGU or GC in accordance with the requirements stipulated in this Order. If the LGU or GC is qualified, the PMO shall submit a report to the General Manager, thru the AGM for Operations, which shall contain the results of the evaluation and recommendation on whether the subject port may be transferred to the LGU or GC, including the appropriate supervision fee to be remitted by the LGU or GC. If not qualified, the PMO shall inform the concerned LGU / GC of the reason for disqualification, copy furnished the General Manager
- 12 3 The General Manager, through the AGM for Operations, shall review the recommendation of the PMO on the application of the LGU / GC to manage, operate, develop and maintain the subject port pursuant to this Order
- 12 4 The General Manager, shall recommend to the PPA Board of Directors for approval the application filed by the LGU or GC for the management, operation, development and maintenance of port
- 12 5 Upon approval by the Board, the General Manager shall convene a Transition Committee (TC) thru a Special Order composed of the following:

Chairperson.	Port Manager of concerned PMO
Vice-Chairperson	Head of the LGU or his/her Authorized Representative
Members	Manager, Port Services Division Manager, Engineering Services Division Manager, Resource and Management Division or Finance Division

12.6 A Technical Working Group (TWG) shall be formed by the concerned Port Manager to assist the TC. The TC shall have the following functions:

- (1) Ensure compilation of data on the port
- (2) Assist the LGU in the organization and training of the staff to be involved in the operation of the port
- (3) Conduct assessment as to the readiness of the LGU to operate and administer the port within 3 months after the creation of the TC
- (4) Submit evaluation report to the General Manager thru the AGM for Operations together with the following:
 - (a) TC certification that trainings were conducted for the LGU staff to be deployed in the port and the LGU's readiness to operate and manage the port,
 - (b) Organizational set-up, operational systems and procedures of the LGU,
 - (c) TC endorsement to the General Manager for the turnover of the port to the LGU, and
 - (d) Draft MOA between the PPA and the LGU in accordance with the MOA format attached to this Order as **Annex "A"**

12.7 The Office of the AGM for Operations, upon final review of requirements, may recommend approval of the MOA by the General Manager

12.8 An appropriate ceremony for the turn-over may be scheduled by the General Manager for this purpose after the approval of the MOA

13. POWERS, FUNCTIONS AND OBLIGATION OF LGU OR GC

The LGU or GC shall create a separate unit or department which will manage, operate, develop and maintain the day-to-day affairs of the port subject of a MOA between PPA and LGU or GC. Said unit or department shall have its own organizational set-up and separate book of accounts from LGU or GC

The following are the powers, duties, functions, obligations and responsibilities of LGU so authorized to manage, operate, develop and maintain a PPA port

13.1 Hold PPA free from any and all liens and/or encumbrances arising from loans and other agreements entered into by the LGU, which shall be held solely responsible whether or not the proceeds thereof were used for port development and similar investments

- 13 2 Take responsibility for the upkeep, repair and maintenance of the port, including maintenance dredging works
- 13 3 Operate cargo handling and other related services within the port or undertake any port-related economic activity therein.
- 13 4 Collect domestic port charges, cargo-handling fees and other dues prescribed by PPA for the use of the port and for services rendered thereat. All revenues of the port shall accrue to the LGU and shall issue the corresponding receipt for their collection
- 13 5 Pay PPA a quarterly Supervision Fee

The Supervision Fee shall be delivered to PPA on or before the 5th day after the end of every quarter to the supervising concerned PMO or thru its authorized depository bank.

- 13 6 Take responsibility for the organization of its manpower requirement.

As a precondition to the actual takeover of a port by the LGU, all concerned personnel tasked to manage and operate the port shall undertake appropriate training with PPA. The cost of such training shall be borne by the LGU

The organization for the port shall include those positions indicated in **Annex "B"** hereof to ensure that the basic functions of port operations, port engineering and maintenance and billing and collections of port charges are carried out efficiently. All port workers hired by the LGU shall not be considered employees of PPA

- 13 7 Post the required Performance Security secured from the Government Service Insurance System (GSIS) or any reputable surety or insurance company in the amount of ONE HUNDRED THOUSAND (Php100,000 00) PESOS in favor of PPA to guarantee payment of PPA quarterly Supervision Fee

14. CANCELLATION OR TERMINATION OF MOA

PPA may, without prejudice to other remedies against the LGU or GC, extrajudicially suspend, cancel or terminate the MOA on any of the following grounds

- 14 1 Failure of the LGU to account and/or remit to PPA the Supervision Fee due in accordance with Sec 9 (c) hereof
- 14 2 Failure of the LGU to undertake the development, repairs and/or maintenance of the ports, structures and facilities covered by the MOA

- 14.3 Change of control arising from the sale, assignment, transfer or other disposition of the interests of the LGU in the MOA, without prior approval from PPA
- 14.4 If the LGU through any of its officials or employees, by taking advantage of their free access to the port premises and vessels calling at the port, engage in or knowingly fails to take action to prevent the commission of smuggling and other illegal activities
- 14.5 Refusal of the LGU to make available to PPA or the Commission on Audit (COA) or other government agencies exercising visitorial powers, its books of accounts and records pertaining to the management, operations, development and maintenance of the subject port
- 14.6 Refusal of the LGU to allow PPA from inspecting facilities, structures and equipment of the port, or any portion thereof
- 14.7 Imposition and/or collection of fees, dues or charges other than those allowed or authorized by PPA in the subject port
- 14.8 Violation of DILG Memorandum Circular No 2006-70 dated 26 June 2006, re-issued/updated under DILG MC No 2011-151 dated 12 October 2011, requiring that the LGUs shall refrain from enforcing any existing or future ordinance authorizing the levy of fees and taxes on inter-province transport of goods, regulatory fees from passengers in local ports, and other additional taxes, fees or charges in any form upon transporting goods and passengers
- 14.9 Violation or non-performance of other terms and conditions of the MOA and this Order
- 14.10 Any violation that may be directly or indirectly imputable to or committed by third parties to whom the LGU or government corporation may have contracted out the MOA

15. TAKEOVER OF MANAGEMENT AND OPERATIONS OF PORTS FROM LGU OR GC

PPA may takeover the management and operation of the port from the LGU C under any the following grounds

- 15.1 In case of violation of any of the terms and conditions of the MOA or PPA rules and regulations
- 15.2 In case of emergency such as strike, lockout, stoppage of work and other causes of similar nature, which will continue without let-up for over a period of one (1) week and the LGU or GC showing no capability to resolve it
- 15.3 In case of cancellation, suspension or termination of the MOA

15.4 When so directed by a court of law

15.5 In other cases, or violations where PPA deems that the takeover is warranted in order to protect and/or promote public interest

16. USE OF LETTER STATIONERY AND STANDARD SIGN BOARD

Corollary with the authority to operate and manage the port covered by a corresponding MOA, the LGU shall use standard letter stationery as prescribed in **Annex "C"** for all transactions relating to the management, operations, maintenance and development of the transferred port by the LGU or Similarly, the LGU shall prepare and post a sign board at the gate of the port/terminal office of the transferred port, following the standard design, size of the sign board, size of letterings, and use of the LGU or GC seal, as prescribed in **Annex "D"** hereof The foregoing requirement shall be immediately complied with upon the turnover.

17. COMPLIANCE WITH REGULATIONS

The LGU or GC shall strictly comply with all applicable laws, policies, guidelines and regulations, which are now or may hereafter be promulgated by the government and PPA

18. REPORTORIAL REQUIREMENTS

The LGU or GC shall submit to PPA, through the concerned PMO, the following reports as part of the monitoring function of PPA.

- a Monthly Gross Income Report – to be submitted not later than the 5th day of the following month,
- b Quarterly Cargo Handling Compliance Report – to be submitted not later than the end of the month following the quarter, and
- c Annual Report – to be submitted not later than May 31 of the following year.

The form of the aforementioned report shall be those prescribed by PPA

19. AUDIT OF PORTS TRANSFERRED TO LGU

19.1 PPA shall exercise its visitorial powers over the LGU or GC and conduct periodic performance audit on the administration and operations of port transferred to it.

19.2 The prescribed Performance Evaluation Review For Renewal of MOA (PERFORM), herewith attached as **Annex "E"**, and its subsequent amendments shall be adopted in the conduct of periodic performance audit on the administration and operations of port transferred to LGU or GC

19.3 The LGU or GC shall make available at all times during office hours, for inspection, examination and audit by PPA or COA all books of accounts and records pertaining to the management, operation, maintenance and development of the port. The authority to inspect, examine and audit shall be exercised by the concerned officials pursuant to and within the limits of the duties and functions vested upon their respective offices by express provision of law.

20. OWNERSHIP

The premises and structures existing at the port which is the subject of a MOA between PPA and LGU or GC shall remain to be under the ownership of PPA. Likewise, improvements introduced by the LGU or GC shall belong to PPA without obligation on the part of the latter to reimburse the former for the cost thereof.

21. RENEWAL OF AGREEMENT

The LGU may signify its intention for the renewal of MOA not later than sixty (60) days before the expiration of the MOA. The General Manager may recommend to PPA Board of Directors the renewal of the MOA entered into between PPA and the LGU or GC upon determination that the LGU or GC has complied with the terms and conditions of said MOA and other pertinent PPA rules and regulations.

22. SETTLEMENT OF DISPUTES

All disputes and disagreements resulting from the implementation or interpretation of any provisions of the MOA shall be submitted to an arbitration as provided under Republic Act No. 9285 otherwise known as the "Alternative Dispute Resolution Act of 2004", before the Department of Justice.

23. APPLICABILITY CLAUSE

Any of the rules and regulations issued or promulgated by PPA not covered by this Order but are deemed necessary by PPA to be pertinent in ensuring effective development, management and operations of ports transferred to LGUs or GCs, including proper collection or supervision fee, shall be applied and implemented accordingly.

24. RESERVATION CLAUSE

PPA reserves the right to cancel any existing MOA and require the immediate return of the port transferred to the LGU, when thrusts, programs and priorities of the national government necessitates the return of such port or the existence of any grounds mentioned in Section 14 of this Order.

25. SEPARABILITY CLAUSE

If any provision of this Order or the application of such provision to any person or circumstances is declared invalid, the other provisions hereof or the application of such provisions shall not be affected by such declaration

26. REPEALING CLAUSE

PPA Administrative Order Nos 05-2007, 06-2013 and 08-2014 are hereby revoked and substituted by this Order Likewise, all other PPA policies, rules and regulations or parts thereof inconsistent herewith, are deemed repealed or modified accordingly

27. EFFECTIVITY

This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and a copy filed with the University of the Philippines Law Center


JAY DANIEL R. SANTIAGO
General Manager

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effectivity date: January 1, 2021 *g*

**MEMORANDUM OF AGREEMENT FOR THE
TRANSFER OF MANAGEMENT, OPERATION, DEVELOPMENT AND
MAINTENANCE
OF THE PORT OF _____**

KNOW ALL MEN BY THESE PRESENTS:

This **MEMORANDUM OF AGREEMENT**, entered by and between

The **PHILIPPINE PORTS AUTHORITY**, a government-owned and controlled corporation created under Presidential Decree No 857, as amended, with principal office at PPA Corporate Center Building, A Bonifacio Drive, Intramuros, Manila, represented herein by its General Manager, **(Name of General Manager)**, duly authorized for the purpose by BoardCom Resolution No 2007-1094 and confirmed by Board Resolution No 2109 both dated on 31 July 2007, a copy of which are hereto attached and made an integral part hereof as Annexes "A" and "A-1" and hereinafter referred to as the "**AUTHORITY**",

- and -

The **LOCAL GOVERNMENT OF _____**, a political subdivision of the government of the Republic of the Philippines established pursuant to law, represented herein by its Municipal/City Mayor, _____, duly authorized for the purpose by virtue of Resolution No _____ of the _____, a copy of which is hereto attached and made an integral part hereof as Annex "B" and hereinafter referred to as the "**LGU - _____**"

WITNESSETH

WHEREAS, the **AUTHORITY** is vested with the statutory duty to implement an integrated program for the planning, development, financing and operation of ports for the entire country and to exercise all rights, powers and functions concerning port facilities, port operations and port works pursuant to the provisions of P D 857 as amended, otherwise known as the Revised Charter of the Philippine Ports Authority,

WHEREAS, under Section 6 of its Revised Charter, the **AUTHORITY** is empowered to provide services within the Port District, whether on its own, by contract or otherwise, and therefore may enter into an agreement with the **LGU - _____**

for the management, operation, development and maintenance of the Port of _____,

WHEREAS, the LGU - _____ has manifested to the **AUTHORITY** its desire to undertake the management, operation, development and maintenance of the Port of _____ and the **AUTHORITY** is willing to grant the LGU - _____ the privilege to manage, operate, develop and maintain the same,

NOW, THEREFORE, for and in consideration of the foregoing premises, the **AUTHORITY** hereby grants unto the LGU - _____ and the latter hereby accepts the sole and exclusive responsibility to manage, operate, develop and maintain the Port of _____, in accordance with the following terms and conditions to wit,

Section 1 Area of Management, Operation, Development and Maintenance – This Agreement covers the Port of _____ located at _____ and more particularly described and delineated in Annex “C”, hereto attached and made in integral part hereof

Anchorage areas fronting the port, and those other areas delineated by the **AUTHORITY** not within the area herein described shall remain under the exclusive jurisdiction of the **AUTHORITY**.

Section 2 Port Revenues – The LGU - _____ shall be allowed to collect domestic port charges, cargo handling and other port related fees, including rental and concessionaire fees, prescribed by the **AUTHORITY** for the use of the port and for services rendered thereat, through the Municipal Treasurer who shall be deputized by the **AUTHORITY**. All said revenues of the port shall accrue to the LGU - _____ which shall issue official receipt therefor

Section 3 Quarterly Supervision Fee – For the training, guidance and supervision by the **AUTHORITY** in the management, operation of the port, and for the LGU - _____ to contribute in the development of the port, the LGU - _____ shall remit to the **AUTHORITY** the Supervision Fee equivalent _____ (%) of port revenues generated on or before the fifth (5th) day of the first month of the following quarter

Section 4 Interest and Penalty – Failure to remit the Quarterly Supervision Fee accruing to the **AUTHORITY** under the preceding Section shall render the LGU - _____ liable to the payment of interest on the amount due at the rate of one percent (1%) for every month of delay and additional penalty charges of two (2%) percent per month

Section 5 Performance Bond – To ensure timely payment of the Quarterly Supervision Fee and faithful compliance with all the terms and conditions of this

Agreement, LGU - _____ shall post a Performance Bond in the amount of ONE HUNDRED THOUSAND (Php100,000 00) PESOS to be secured from Government Service Insurance System (GSIS)

Section 6 **Separate Operating Unit** - The LGU - _____ shall by an appropriate council action create a separate unit or department which will manage, operate, develop and maintain the day-to-day affairs of the Port of _____ Said unit or department shall have its own organizational set-up and separate book of accounts from LGU - _____

Section 7 **Upkeep, Repair and Maintenance** – At all times during the effectivity of this Memorandum of Agreement, the LGU - _____ shall maintain and repair, at its own expense and account, all structures within said area referred to in Section 1 hereof in clean and good working condition and in accordance with the accepted standards, including the conduct of maintenance dredging works

For the conduct of capital dredging works necessary to ensure safe passage and berthing of vessels at the Port of _____ during the term of this Agreement, including major civil works such as repair of mooring structures and replacement of rubber duck fenders, the LGU - _____ shall formally request the **AUTHORITY** through the PPA Port Management Office (PMO) holding jurisdiction over the port, together with the written justification, for the said undertaking. The PMO shall immediately inspect the validity of the request and make the necessary recommendations to PPA Head Office

Section 8 **Reports** – The LGU - _____ shall submit to the **AUTHORITY** monthly report on revenues collected with the corresponding copies of official receipt issued

Further, the LGU - _____ shall furnish the **AUTHORITY** detailed reports of the movement of cargoes and vessels at the premises, safety and security of the port, equipment inventory and productivity, and other reports in such form and frequency that the **AUTHORITY** may prescribe

Section 9 **Insurance** – The LGU - _____ shall within thirty (30) calendar days from the effectivity of this Agreement insure the facilities, structures and other properties in the premises covered by this Agreement and secure said insurance from the Government Insurance System (GSIS) and furnish the **AUTHORITY** with a copy of the corresponding Insurance Policy thereof. The **AUTHORITY** shall be named beneficiary of such insurance with the obligation to apply the proceeds thereof exclusively for the repair, restoration or replacement of the properties or premises damaged or lost

Section 10 **Taxes and Other Impositions** – The LGU - _____ shall, at its own expense and without reimbursement from the **AUTHORITY**, pay all taxes, fees, charges and other impositions which may be levied by the local or national

government, its agencies or political subdivisions upon the premises and improvement thereof covered by this Agreement

Section 11 **Utilities** – The LGU - _____ shall be responsible for the payment of all water, light, fuel, garbage collection and disposal, electric power, gas, telephone and other utilities used within the area referred to in Section 1 hereof

Section 12 **Minimum Cargo Handling Equipment/Gear** – The LGU - _____ shall provide and maintain the sufficient cargo handling, safety and related equipment/gear necessary for the efficient operation of the port as prescribed by the **AUTHORITY**. The same shall be subject to review and inspection by the **AUTHORITY** and the LGU - _____ shall commit to replace such equipment which are found to be inefficient and uneconomical to operate and maintain, and procure additional equipment to meet the exigencies of port services

Section 13 **Existing Agreements** – All existing agreement entered into by the **AUTHORITY** in the port shall be respected by the LGU - _____ for the duration thereof

Section 14 **Port Development** – The LGU - _____ through a Sangguniang Resolution, may propose port development projects to the **AUTHORITY** for inclusion in the development plans of the Port of _____. All development plans shall have prior approval and shall be implemented by PPA which shall conform with the overall master plan for all the ports nationwide

Section 15 **Rates and Charges** – The rates and charges collectible by the LGU - _____ from the port users and for services it provides shall be those prescribed by the **AUTHORITY**. The same shall be subject to adjustment in accordance with the price policy and rate setting mechanism adopted by the **AUTHORITY** and the laws and regulations promulgated by the government. No other new charges, fees or dues of any kind or nature shall be collected by LGU - _____ in any passenger, cargo or vessel or for the use of the port facilities thereat

Section 16 **Permit to Operate (PTO) Cargo Handling and Other Port Related Services** – The cargo handling and other port related services contracted out to third parties by the LGU - _____ shall have a term not to exceed the stipulated term of this Agreement. Provided, that the third party service provider chosen by the LGU - _____ through a Sangguniang Resolution shall secure the corresponding PTO and accreditation from the **AUTHORITY** after complying with the documentary requirements thereof as provided under applicable regulations of the **AUTHORITY**.

Section 17 **Grounds for Suspension, Cancellation or Termination of Agreement and Damages** – The **AUTHORITY** may, without prejudice to other remedies

against the **LGU** - _____, extra-judicially suspend, cancel or terminate this Agreement on any of the following grounds

- a Failure of the **LGU** - _____ to account and/or remit to the **AUTHORITY** its Quarterly Supervision Fee in accordance with Section 3 hereof,
- b Failure of the **LGU** - _____ to undertake the development repairs and maintenance of the ports, structures and facilities subject to this Agreement,
- c Change of control arising from the sale, assignment, transfer or other disposition of the **LGU** - _____ interests in this Agreement, without the prior approval from PPA,
- d If the **LGU** - _____ through any of its officials or employees, by taking advantage of their free access to the port premises and vessels calling at the port, engage in or knowingly fails to take action to prevent the commission of smuggling and other illegal activities,
- e Refusal of the **LGU** - _____ to make available to the **AUTHORITY**, the Commission on Audit or other government agencies exercising visitorial powers, its books of accounts and records pertaining to the management, operations, development and maintenance of the subject port,
- f Refusal of the **LGU** - _____ to allow the **AUTHORITY** from inspecting facilities, structures and equipment of the port, or any portion thereof,
- g Any violation that may be directly or indirectly imputable to or committed by third parties to whom the **LGU** - _____ may have contracted out to this Agreement,
- a Imposition and/or collection by **LGU** - _____ of fees, dues or charges other than those allowed or authorized by the **AUTHORITY**,
- h Non-issuance of Official Receipt by the **LGU**'s duly authorized collecting official/s for revenues or payments received for the use of the port and/or services rendered thereat,
- i Violation of the DILG Memorandum Circular No 2006-70, dated 26 June 2006, reissued/updated under DILG MC No 2001-151 dated 12 October 2011, requiring that the **LGUs** shall refrain from enforcing any existing or future ordinance authorizing the levy of fees and taxes on inter-province transport of goods, regulatory fees from passengers in local ports, and other additional

taxes, fees or charges in any form upon transporting goods and passengers, and

Violation or non-performance of the other terms and conditions of this Agreement

Section 18 **Notice of Violation** – The **AUTHORITY** shall inform the **LGU** - _____ in writing of any violation of the terms of this Agreement or its failure to perform any of its commitment or undertaking specified in the agreement, giving the latter reasonable time from receipt of notice within which to correct or rectify the infraction thus committed. In the event the **LGU** - _____ fails to make such rectification to the satisfaction of the **AUTHORITY**, the latter may proceed to cancel or terminate the Agreement.

Section 19 **Ownership** – The premises and structures existing thereon which is the subject of this Agreement shall remain to be under the ownership of the **AUTHORITY**. Likewise, improvements introduced by the **LGU** - _____ shall belong to the **AUTHORITY** without obligation on the part of the latter to reimburse the former for the cost thereof.

Further, the **LGU** - _____ shall hold the **AUTHORITY** free from any and all liens and/or encumbrances arising from loans and other agreements entered into by the **LGU** - _____, which shall be held solely responsible whether or not the proceeds thereof were used for port development and similar investments.

Section 20 **Takeover by the AUTHORITY** – The **AUTHORITY** shall have the right to immediately takeover the management and operations at the Port of _____, including all equipment and structures thereof, if any, in the following instances:

- a In case of violation of any of the terms and conditions of this Agreement or the **AUTHORITY**'s rules and regulations,
- b In case of emergency such as strike, lockout, stoppage of work and other causes of similar nature which continue without let-up for over a week with the **LGU** - _____ showing no capability to resolve it,
- c In case of cancellation, suspension or termination of the Agreement,
- d When so directed by a court of law, and
- e In such other cases when the **AUTHORITY** deems that the takeover is warranted in order to protect and/or promote public interest.

Section 21 **Compliance with Government Rules and Regulations** – The LGU - _____ shall, during the term of this Agreement, strictly comply with the pertinent provisions of PPA Administrative Order No 05-2007, as amended, and all other applicable laws, policies, guidelines, rules and regulations which are now existing or may hereafter be promulgated by the government or by the **AUTHORITY**. All such policies, guidelines, rules and regulations and all applicable laws, shall be read into and made integral part of this Agreement.

Section 22 **Visitorial Powers** – The LGU - _____ shall make available at all time during office hours, for inspection, examination and audit by the **AUTHORITY**, the Commission on Audit or other government agencies exercising visitorial powers, all books of accounts and records pertaining to the management and operation of the Port of _____, including all facilities, structures and equipment thereof.

Provided that the authority to inspect, examine and audit shall be exercised by the officials concerned pursuant to and within the limits of the duties and functions vested upon their respective offices by expressed provision of law.

Section 23 **Settlement of Disputes** – The parties hereby agree to submit all disputes arising from the interpretation or implementation of any provisions of this Agreement to arbitration proceedings as provided for under Republic Act No 9285, otherwise known as the Alternative Dispute Resolution Act of 2004, before the Department of Justice.

Section 24 **Venue of Any Court Action** – The venue of any court action arising from this Agreement involving any clause, matter or thing whatsoever herein contained, or the rights, duties and liabilities of any part thereof, shall be the proper court in the City of Manila. However, nothing herein contained shall preclude the **AUTHORITY** from exercising its rights under any of the pertinent provisions of this Agreement.

Section 25 **Amendatory Clause** – Subject to the approval of both the LGU - _____ and the **AUTHORITY** at anytime during effectivity of this Agreement, any of the parties may propose amendment/s to conform with the provisions of pertinent laws, rules and regulations on the matter.

Section 26 **Terms and Effectivity** – This Agreement shall become effective upon execution hereof by the duly authorized representative of the parties, and shall remain in full force and effect for a period of **three (3) years**, renewable for another term at the option of the **AUTHORITY**, under such terms and conditions as the parties may agree, unless sooner modified, cancelled or terminated in accordance with the pertinent provisions hereof.

IN WITNESS WHEREOF, the parties hereto have signed this Memorandum of Agreement on _____ day of _____ 2020.

PHILIPPINE PORTS AUTHORITY

By

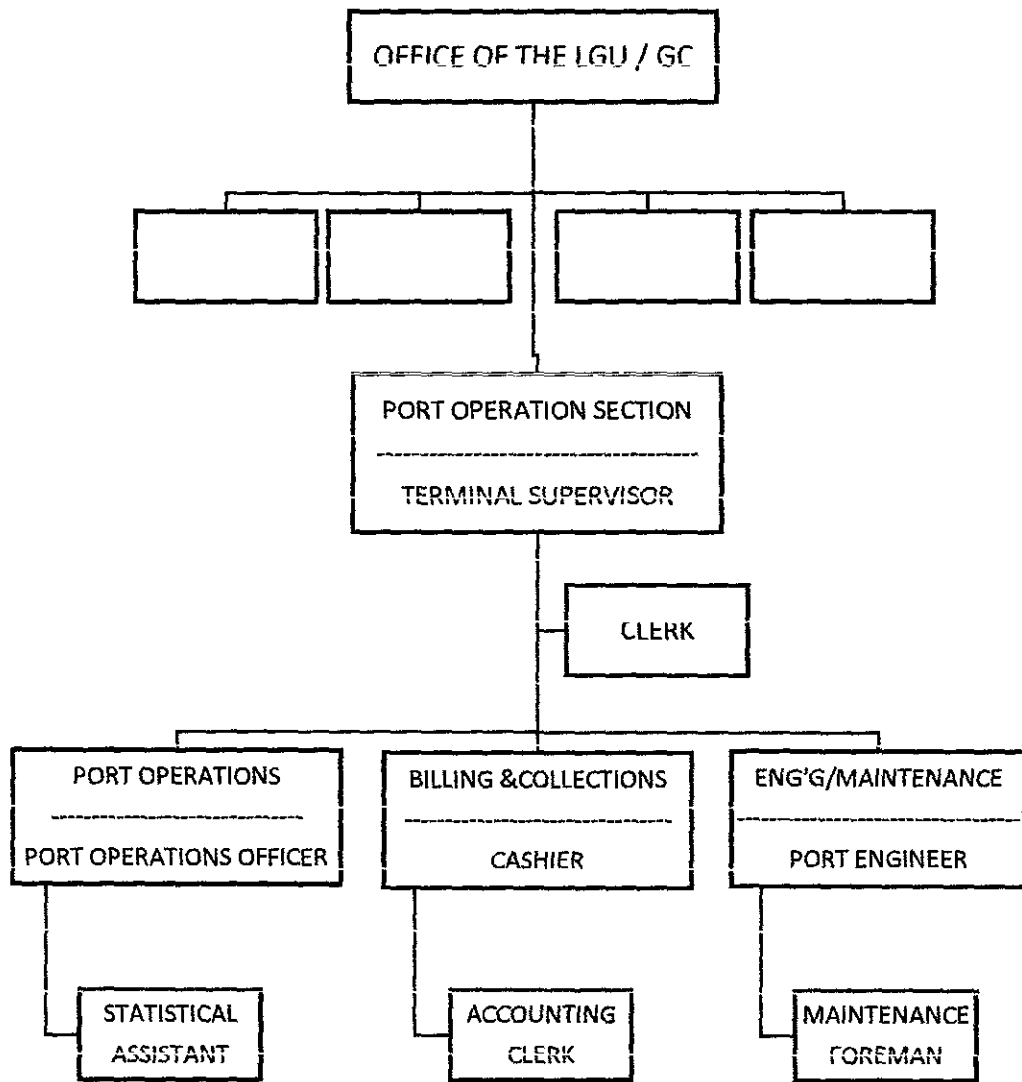
General Manager

LOCAL GOVERNMENT OF

By

Head of LGU / GC

Signed in the presence of



ORGANIZATIONAL CHART

PHILIPPINE
PORTS
AUTHORITY



Port Management Office of _____

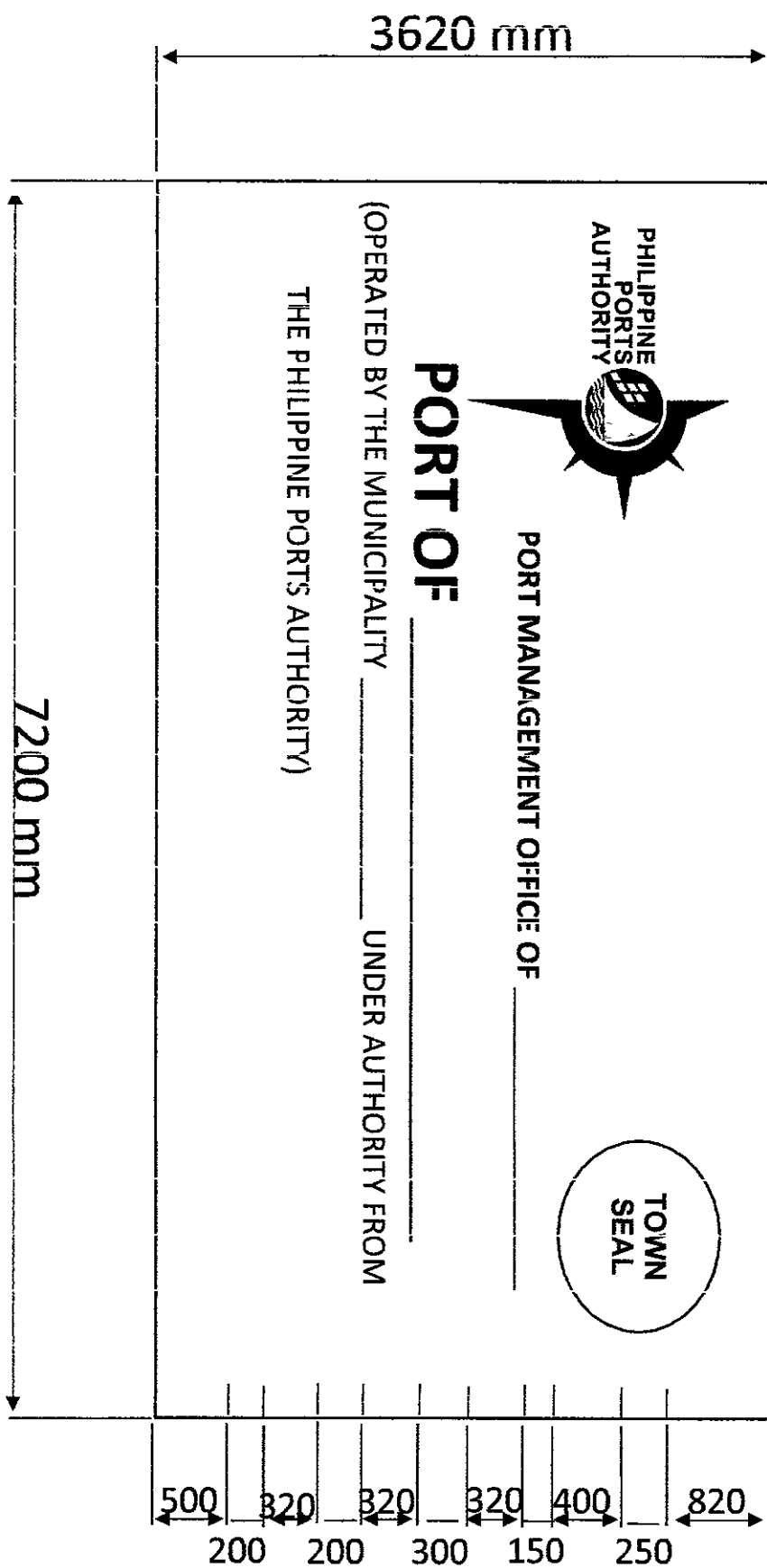
Port of _____

Address _____

(Operated by the Municipality of _____

under authority of the Philippine Ports Authority)





NOTE: NOT DRAWN TO SCALE

**Performance Evaluation Review for Renewal of MOA (PERFORM)
for the Management, Operation, Development and Maintenance
of Ports Transferred to Local Government
Units (LGUs) or Government Corporation (GCs)**

1 Objectives

- a To establish a performance rating system for LGUs and GCs for managing and operating PPA Ports devolved under PPA _____
- b To enhance efficiency, safety and economy of the management and operations of cargo handling/related services
- c To rationalize the ground for the renewal of MOA with LGU/GC

2 Guidelines

In the implementation of these Guidelines, the following shall be complied with

- a Any of the grounds hereunder specified shall be considered as grave violation and constitute sufficient cause in which the PPA may, without prejudice to other remedies against LGU/GC, extra-judicially cancel or terminate the MOA
 - 1 Failure of the LGU/GC to account and/or remit to the PPA the Supervision Fee due in accordance with the MOA
 - 2 Failure of the LGU/GC to undertake the repairs and/or maintenance of the port, structures and facilities covered by the MOA, including maintenance dredging works
 - 3 Change of control arising from the sale, assignment, transfer or other disposition of the interests of the LGU/GC in the MOA, without prior approval from PPA
 - 4 If the LGU/GC through any of its officials or employees, by taking advantage of their free access to the port premises and vessels calling at the port, engage in or knowingly fails to take action to prevent the commission of smuggling and other illegal activities
 - 5 Refusal of the LGU/GC to make available to the PPA or the Commission on Audit (COA), its books of accounts and records pertaining to the management, operations, development and maintenance of the subject port

- 6 Imposition and/or collection of fees, dues or charges other than those allowed or authorized by PPA in the subject port
 - 7 Violation of the DILG Memorandum Circular No 2006-70, dated 26 June 2006, re-issued/updated under DILG MC No 2001-151 dated 12 October 2011, subsequent amendments thereto or other laws which will hereafter be promulgated, requiring that the LGUs shall refrain from enforcing any existing or future ordinances authorizing the levy of fees or charges in any form upon transporting goods and passengers
 - 8 Violation or non-performance of other terms and conditions of the MOA and PPA Administrative Order No 05-2007, as amended
 - 9 Any violation that may be directly or indirectly imputable to or committed by third parties to whom the LGU/GC may have contracted out the MOA
 - 10 Failure of the LGU/GC to post prescribed performance bond within one (1) month after the execution of the MOA or renew the same within one (1) month upon expiration of said bond
- b The Internal Audit Department (IAD), the Office primarily responsible for conducting the audit, shall proceed with the performance evaluation of the LGU/GC even when the latter has committed any of the foregoing grave violations. However, no corresponding adjectival rating shall be provided by the IAD and said violations and other findings shall be qualitatively stated in the audit report
 - c Only when there is no violation of any of the grave offenses that the LGU/GC shall be rated accordingly using the simplified PASS/FAIL performance evaluation method of PERFORM
 - d For purposes of rating, a point is earned for every audit item passed and an adjectival rating shall correspond to the total points earned by the LGU/GC
 - e When the LGU/GC's performance is rated below "Satisfactory", cancellation/termination of its MOA shall be initiated subject to the implementation of the provision on Notice of Violation in MOA

3 Sanctions

- a For the LGU/GC whose MOA has been cancelled/terminated, the management and operation of the port subject of the MOA shall thereafter be taken over by PPA
- b For the LGU/GC which earned a performance rating below "Satisfactory" in its most recent audit report prior to the application for the renewal of MOA, said renewal shall not be granted by PPA

The foregoing sanctions shall be without prejudice to any civil and/or criminal liabilities that may be filed with and adjudicated by a court of competent jurisdiction

4 PERFORM

I. ORGANIZATION AND MANAGEMENT

Audit Item	PASS	FAIL
<p>A. Submission to Supervision and/or Overseeing by Authority</p> <p>LGU/GC submits to supervision, inspection and/or overseeing its port operations and financial transactions by the Authority</p>		
<p>B. LGU/GC Port Management Unit</p> <p>LGU/GC's organizational structure for port management provides adequate administrative and fiscal control over port resources/properties as well as in the conduct of port operations</p>		
<p>C. Training of Port Personnel</p> <p>LGU/GC submits to PPA, training programs for its port workers, which shall contain, among others, port related courses, schedule, venue and the agency/outfit (government or private) that will conduct the training Such training programs shall be in coordination with the PPA Training Institute (PPATI)</p>		
<p>D. Labor Management</p> <p>1 Compliant to age requirement</p> <p>LGU/GC or its Cargo Handling (CH) Contractor shall not hire portworkers below 18 years of age</p>		
<p>2 Equal Earning Opportunity/Labor Rotation</p> <p>Portworkers rotated in a manner that everyone is given equal earning opportunity The total working hours in a month shall be fairly distributed among labor pool</p>		

Audit Item	PASS	FAIL
<p>3 Maintenance of Payroll</p>		

Payroll of personnel/portworkers contains complete information as to the period, rate, number of hours/days worked, amount of gross pay, deductions, net pay and signature		
<p>4 Payment of Salaries/Minimum Wages</p> <p>Portworkers are paid directly in accordance with existing laws on wages, overtime rates, night differential premium and others</p>		
<p>5 Social Security</p> <p>Portworkers possess SSS ID Contributions for insurance/retirement premiums, Medicare and ECC and loan payments to SSS shall be fully remitted in accordance with the prescribed schedule</p>		
<p>6 Maintenance of Portworkers' Retirement & Separation Fund</p> <p>LGU/GC maintains a Trust Fund for the benefit of portworkers who resign/retire or have been retrenched or whose services have been terminated due to changes in cargo handling contractors</p>		
<p>E. Medical Attendance</p> <p>LGU/GC provides free medical attendance to its portworkers in accordance with Article XII of the Dockwork Safety and Health Standards (DSHS)</p>		

II. OPERATIONS

Audit Item	PASS	FAIL
A. Cargo Handling System		
1 Cargo Handling Method		

<p>LGU/GC or its CH contractor, adopts the most expedient and safest method and/or style of handling diversified cargoes</p>		
<p>2 Cargo Location System/Plan</p> <p>LGU/GC or its CH contractor, has in place an effective cargo location system and performs systematic consolidation and segregation of cargoes within 24 hours after discharge</p>		
<p>3 Storage/Stacking/Piling of Cargoes</p> <p>LGU/GC or its CH contractor, has adopted method(s) in handling materials/cargoes and in storing/stacking the same in accordance with the provisions or Article XIV of DSHS</p>		
<p>B. Processing and Documentation</p> <p>1 Processing</p> <p>LGU/GC or its CH contractor, upon receipt of complete documents, processes the same to the satisfaction of port users and release the said cargo within one (1) hour</p>		
<p>2 Documentation</p> <p>An accurate account of cargoes loaded and unloaded per vessel is registered and reported properly</p>		
<p>C. Records of Shipcalls, Labor Productivity and Cargoes Handled</p> <p>LGU/GC or its CH contractor maintains a complete record of shipcalls per type of vessel, destination and frequency, labor productivity by type of operation, and cargo tonnage handled by type of cargoes, e g bulk, breakbulk, containerized</p>		

Audit Item	PASS	FAIL
<p>D. Reports</p> <p>LGU/GC submits to PPA detailed reports of the movement of cargoes and vessels at the port, safety and security of the port premises, equipment inventory and productivity, and other reports in such form and frequency that the PPA may prescribed</p>		

<p>E. Safety</p> <p>1 Safety Program and Officer</p> <p>LGU/GC employs a Safety officer and formulates a Safety Program which is fully implemented</p>		
<p>2 First Aid Boxes/Drinking Water Facilities</p> <p>LGU/GC makes available at strategic areas sufficient number of suitable and adequately stocked first aid boxes and drinking water facilities for common use</p>		
<p>3 Safety Signs/Slogans</p> <p>LGU/GC posts in strategic locations adequate safety signs/slogans in all workplaces</p>		
<p>4 Protective Devices/Safety Gears</p> <p>LGU/GC provides its portworkers with safety gloves, hard hats and safety shoes and in no case shall said workers be allowed to work without them</p>		
<p>5 Fire Fighting Drills</p> <p>Fire fighting drills were held at least once a year or as often as necessary by the Fire Bngade of the LGU/GC where other port users were involved Thereafter, a fire drill report was submitted to PPA</p>		

Audit Item	PASS	FAIL
<p>6 Accident/Incident Report</p> <p>LGU/GC submits to the Authority all work accidents and occupational illnesses resulting from port operations and/or condition of employment</p>		
<p>F. Cleanliness, Orderliness and Environmental Protection</p>		

LGU/GC ensures the cleanliness of all facilities and area within the port zone and adopts measures for protection of environment such as proper waste disposal and segregation		
G. Security LGU/GC engages the services of duly licenses security personnel to safeguard its offices, equipment and cargoes while under its custody		

III. FINANCE

Audit Item	PASS	FAIL
A. Bookkeeping LGU/GC maintains a separate Book of Accounts for the management and operation of the port which is registered, adequate and recorded properly		
B. Accountable Forms Bills of Charges, invoices and official receipts were printed, pre-numbered and registered with the BIR		
C. Authorized Cargo Handling Tariff All cargoes handled, received and placed under the custody of the LGU/GC shall be billed the corresponding arrastre, stevedoring or other service charges using rates duly approved by the PPA		

Audit Item	PASS	FAIL
D. Classification and Segregation of Charges/VAT in the Bills/Invoices/ORs The nature of charges, corresponding rates and VAT shall be specifically indicated in the bill		
E. Financial Reports Including Annual Reports		

All remittances shall be accompanied by a monthly report of gross income duly certified by the LGU/GC		
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SUMMARY:

AREA	TOTAL POINTS	POINTS EARNED	ADJECTIVAL RATING
I Organization and Management	10		
II Operations	15		
III Finance	5		
TOTAL	30		

Rating

30
27 – 29
26
Below 26

Adjectival Rating

Outstanding
Very Satisfactory
Satisfactory
Unsatisfactory